

## **Division VIII of Title 5 of the California Code of Regulations**

### **Proposed Addition to Title 5 of the California Code of Regulations Pertaining to Cost Recovery Fees for Accreditation Activities**

#### **Notice of Proposed Rulemaking**

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action.

#### **Public Hearing**

A public hearing on the proposed action will be held:

**October 10, 2014**

**8:30 a.m.**

**Commission on Teacher Credentialing  
1900 Capitol Avenue  
Sacramento, California 95811**

#### **Written Comment Period**

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by email relevant to the proposed action. The written comment period closes at 5:00 p.m. on September 29, 2014. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 327-3165; write to the Commission on Teacher Credentialing, attn. Kathryn Polster, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at [kpolster@ctc.ca.gov](mailto:kpolster@ctc.ca.gov).

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

#### **Authority and Reference**

Education Code (EC) section 44225 authorizes the Commission to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific EC section 44374.5 that authorizes the Commission to implement an annual accreditation fee schedule for all institutions that are approved to operate educator preparation programs.

#### **Informative Digest/Policy Statement Overview**

##### **Summary of Existing Laws and Regulations**

Senate Bill (SB) 858 (Chap. 32, Stats. 2014) amended EC section 44374.5, thereby authorizing the Commission to develop and implement an annual accreditation fee schedule. The purpose of the proposed annual accreditation fee is to implement a cost sharing plan for accreditation activities.

The Commission approved emergency regulations related to annual accreditation fees on June 20, 2014 at the regularly scheduled meeting. Following Commission approval, emergency regulations were submitted to the Office of Administrative Law (OAL). On July 11, 2014, OAL approved adding sections 80693 and 80694 to Title 5 of the California Code of Regulations (CCR) on an emergency basis. These emergency regulations became effective on August 7, 2014 and expire on January 8, 2015.

#### Fee Evaluation Framework

In order to evaluate the various alternatives (fee options) for setting the annual accreditation fee, criteria was first established. The following section details the basis by which the Commission evaluated various fee options.

- *Administrative ease* – The ease by which a fee could be administered should be a factor in the evaluation of fee options. To reduce administrative costs that impact the ability of the Commission to fully utilize revenue to cover program review activities, the fee policy should not be overly burdensome for the Commission. An efficient fee policy should also have minimal administrative costs for program sponsors.
- *Non-regressive, non-progressive* – The inherent fairness of a fee should be a factor in the evaluation of fee options. The variety of institutions suggests a range of abilities to absorb the impact of the new fees.
- *Reflective of accreditation costs* – The extent to which a fee policy reflects the Commission’s costs associated with program review workload should be considered. Because the proposed statute allows for the fees to cover the “standard” costs of accreditation, the fee should consider standard costs associated with the accreditation function. This should include costs for travel by site visit volunteers, hotel and food costs, and other accreditation related costs.
- *Addresses Cash Flow Problems* – The Commission has struggled with cash flow problems in recent history. Fees could be scheduled so that they are due in the Fall months, providing some level of cash flow relief during the months that credential application revenues are low.

#### Composition of Annual Accreditation Fees

The annual accreditation fees will be comprised of an institution fee and a program fee. The institution fee is based on the average number of credential recommendations made by an institution over the most recent three-year period. Program fees are based on the number of Commission-approved educator preparation programs offered by an institution. The annual accreditation fee is used to cover the costs of ongoing reviews of existing educator preparation programs with program assessment and site visits utilizing the largest part of the accreditation budget. There are also other related activities required to maintain a high level of educator preparation in the state of California.

#### *Program Assessment*

Program assessment occurs in Year Four of the seven-year accreditation cycle and is a review of all programs offered by an institution. Program assessment is used to assist the institution in preparing for the site visit in Year Six as well as providing information to the site visit team. Two qualified and trained education professionals review the program assessment documents in a protected environment facilitated by Commission staff to determine if the programs are preliminarily aligned with the program standards.

### *Site Visit*

The Commission's accreditation system includes a site visit in Year Six of the accreditation cycle. The focus of a site visit is mainly on the Common Standards, but may include any program areas identified in advance by the Committee on Accreditation (COA) as a result of the program assessment process. The size of the site visit team is dependent upon the number of programs and size of the institution. Additional site visit team members may be required when a program at an institution has not completed the program assessment process (noted in the paragraph above) prior to the visit.

### Necessity of Accreditation Activities

The Commission implements a seven-year accreditation cycle that includes three major components: 1) program assessment, 2) biennial reports, and 3) site visits. The accreditation system relies on educators (those who prepare educators and practicing educators) to review the educator preparation programs. The individuals who apply for this work are selected based on identified criteria. They complete training and then join the Board of Institutional Reviewers (BIR). In addition, training of BIR members and site visit team leads; regularly scheduled COA meetings; and ongoing program standards and accreditation framework review and revision are functions associated with the accreditation system. Costs are primarily incurred for components of the accreditation system that require the use of experts from the field to determine if the documentation provided by institutions regarding the quality of their program's operations, faculty, and services for candidates are aligned to the requirements of the Commission's adopted standards. Expenses include reimbursement for the travel of volunteers and staff who review documents and participate in the accreditation system.

### Summary of Proposed Annual Accreditation Fees and Due Dates – *Institution Fee and Program Fee*

Table A provides the five tiers of the Institution Fee. The number of recommendations is based on a three year average for each institution. Table B provides the individual program fee an institution can expect to pay based on the number and type of programs being sponsored.

| <b>Table A: Institution Fee: Average Number of Candidate Recommendations (over 3 years)</b> |                        |                              |                            |                          |
|---|------------------------|------------------------------|----------------------------|--------------------------|
| <b>Tier</b>   | <b>Recommendations</b> | <b># of Sponsors in Tier</b> | <b>Fee per institution</b> | <b>Potential Revenue</b> |
| 1   | 0-50                   | 152                          | \$1,000                    | \$152,000                |
| 2   | 51-100                 | 32                           | \$1,400                    | \$44,800                 |
| 3   | 101-300                | 26                           | \$1,800                    | \$46,800                 |
| 4   | 301-600                | 21                           | \$2,200                    | \$46,200                 |
| 5   | Over 600               | 20                           | \$2,500                    | \$50,000                 |

| <b>Table B: Program Fee</b>   |                    |
|---|--------------------|
| <b>Type of Educator Preparation Program</b>   | <b>Program Fee</b> |
| <b>Initial Preparation programs</b> —usually those with 12 or more Program Standards  | <b>\$400</b>       |
| <b>Intern Programs</b> —If an institution offers an educator preparation program (preliminary teaching or administrative services programs) in both a traditional and an intern delivery model, there is an additional \$150 annual fee | <b>\$150</b>       |
| <b>Second Level/Specialist programs</b> —usually those with 6 -11 Program Standards   | <b>\$300</b>       |
| <b>Added Authorization or Special Class/Teaching Authorization programs</b> —usually  | <b>\$200</b>       |

| <b>Table B: Program Fee</b>   |             |
|---|-------------|
| those with fewer than 6 Program Standards   |             |
| <b>Inactive programs</b> – If an institution elects to declare a Commission-approved educator preparation program Inactive a \$50 annual fee will be assessed for each inactive program | <b>\$50</b> |

#### *Extraordinary Activity Fee*

In addition to the program and institution fees, the proposed regulations also include an extraordinary activity fee of \$500 to be charged when an institution does not pay the total Annual Accreditation fee by November 1 of any given year. EC section 44374.5(b) includes the following language: “The commission may charge commission-approved entities a fee to recover the costs of accreditation activities in excess of the regularly scheduled data reports, program assessments, and accreditation site visits. This includes, but is not necessarily limited to, accreditation revisits, addressing stipulations, or program assessment reviews beyond those supported within the standard costs of review.”

The purpose of this extraordinary activity fee is to recover the cost for additional staff time involved in collecting an overdue debt including tracking late payments, letters, emails, and phone calls to request payment by the institution. Since payments are due by a specific date, late payments mean that staff have to be redirected from other work to handle late payments. In some instances the payment may be made so late that the accreditation visit may incur charges that cannot be refunded (like hotel rooms and meeting rooms) if the site visit or other accreditation activities must be cancelled at the last minute due to non-payment. The extraordinary activity fee is not a fine.

#### *Fee Schedule Due Dates*

The September 1 due date provides the Commission with the needed cash flow relief during the months that credential application revenues are low and staff are more available for processing of invoices and payments. Additionally, the fall due date provides the Commission with a more specific budget outlook while planning for the travel-heavy spring accreditation activities, including site visits.

#### Objectives and Anticipated Benefits of the Proposed Regulations

The objectives of the proposed regulations amendments are to establish an annual accreditation fee schedule that will allow the Commission to continue to perform its statutorily-mandated accreditation duties.

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing the monetary means to perform its statutorily-mandated accreditation duties, thereby ensuring high quality educator preparation for the instruction of California public school pupils.

The proposed regulations will promote fairness and prevent discrimination by specifying that the annual accreditation fees apply to all institutions offering Commission-approved educator preparation programs, regardless of agency type. The proposed regulations will also increase openness and transparency in government by clarifying the annual accreditation fees associated with the accreditation of institutions offering Commission-approved educator preparation programs. The Commission does not anticipate that the proposed regulations will result in the

protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulation amendments are not inconsistent or incompatible with existing regulations. SB 858 amended EC section 44374.5 which delineates the difference between the normal standard costs of reviewing existing educator preparation programs and costs of accreditation activities in excess of the regularly scheduled activities.

There are no other 5 CCR sections that specify fees for routine accreditation activities associated with existing Commission-approved programs. 5 CCR sections 80691 and 80692 specify fees for new institution and/or program approval and extraordinary costs associated with accreditation. These fees apply only to activities that go above and beyond the routine scope of work related to the accreditation system.

**Documents Incorporated by Reference:**

*Accreditation Handbook* Chapter Three, Institutional and Program Approval (rev. 2013):

<http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-03.pdf>

**Documents Relied Upon in Preparing Regulations:**

April 2014 Commission Agenda Item 5A:

<http://www.ctc.ca.gov/commission/agendas/2014-04/2014-04-5A.pdf>

June 2014 Commission Agenda Item 3A:

<http://www.ctc.ca.gov/commission/agendas/2014-06/2014-06-3A.pdf>

**Disclosures Regarding the Proposed Actions**

The Commission has made the following initial determinations:

*Mandate to local agencies or school districts:* None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

*Other non-discretionary costs or savings imposed upon local agencies:* None.

*Cost or savings to any state agency:* In the 2014-2015 fiscal year costs of \$2,550 to \$11,600 will be incurred by California State University and University of California institutions. These costs are associated with the average number of credential candidates recommended over the most recent three year period combined with the per program cost for each Commission-approved educator preparation program a university operates. Due to the variables in the calculation the fees are subject to change annually depending on the number of recommendations and operating programs.

Costs associated with accreditation activities are highly complex and vary depending on the scope of review required and the number of reviewers needed to accomplish the activity. There are currently 23 California State Universities (CSU) offering approximately 19 programs per

entity (447 CSU programs) and 8 Universities of California (UC) offering approximately 10 programs per entity (79 UC programs) for a total of approximately 526 programs. There are also currently 56 private institutions of higher education offering approximately 8 programs per entity (473 programs) and 165 school districts and county offices of education offering approximately two programs per entity for a total of approximately 347 programs. In addition to the varying numbers of programs at each institution, each program has a varying level of complexity and number of standards per program. Finally, the number of candidates recommended per program fluctuates greatly and is difficult to predict.

CSUs, UCs, private institutions, school districts, and county offices of education are not required by statute or regulations to offer Commission-approved programs. Further, the annual accreditation fees are not intended to be punitive in nature. The fees are proposed as a means for the Commission to recover incurred costs associated with the accreditation activities as provided in EC section 44374.5(a).

*Cost or savings in federal funding to the state:* None.

*Significant effect on housing costs:* None.

*Significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:* None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

*Cost impacts on a representative private person or business:* There are currently 56 private colleges and universities offering approximately eight programs per institution for a total of approximately 473 programs. The 2014-15 annual accreditation fees for private institutions ranges between \$1,000 and \$10,650 dependent upon the average number of credential recommendations and number of Commission-approved educator preparation programs being offered by the institution. Refer to the *Cost or savings to any state agency* section on page 5 for additional information on the calculation of the fees.

The Commission is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

*Statement of the Results of the Economic Impact Assessment [Govt. Code § 11346.5(a)(10)]:* The Commission concludes that it is (1) unlikely that the proposal will create any jobs within the State of California; 2) unlikely that the proposal will eliminate any jobs within the State of California; 3) unlikely that the proposal will create any new businesses with the State of California; 4) unlikely that the proposal will eliminate any existing businesses within the State of California; and 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

*Benefits of the Proposed Action:* The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing

the monetary means to perform its statutorily-mandated accreditation duties, thereby ensuring high quality educator preparation for the instruction of California public school pupils.

*Effect on small businesses:* The proposed regulations will not have a significant adverse economic impact upon business. The proposed regulations apply only to institutions electing to offer Commission-approved and accredited educator programs.

### **Consideration of Alternatives**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearing.

### **Contact Person/Further Information**

General or substantive inquiries concerning the proposed action may be directed to Kathryn Polster by telephone at (916) 445-0928 or Kathryn Polster, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Angel Lopez at (916) 327-2969 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at [www.ctc.ca.gov](http://www.ctc.ca.gov). In addition, all the information on which this proposal is based is available for inspection and copying.

### **Availability of Statement of Reasons and Text of Proposed Regulations**

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, an economic impact assessment/analysis contained in the Initial Statement of Reasons, and Commission agenda items 5A from the April 2014 meeting and 3A from the June 2014 meeting. Copies may be obtained by contacting Kathryn Polster at the address or telephone number provided above.

### **Modification of Proposed Action**

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

### **Availability of Final Statement of Reasons**

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Kathryn Polster at (916) 445-0928.

### **Availability of Documents on the Internet**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Commission's website at [www.ctc.ca.gov](http://www.ctc.ca.gov).